City of Lafayette
City Council Special Meeting

MINUTES

Lafayette Community Center – Manzanita Room **July 14, 2008**
500 St. Mary's Road, Lafayette, California **6:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 6:00 p.m.

2. ROLL CALL

Present: City Council: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Mala Subramanian, City Attorney; Niroop Srivatsa, Planning &Building Services Manager; Mei Sun Li, Senior Center Coordinator; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Federighi/Tatzin) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri Federighi; Noes: None; Absent: None).

4. PUBLIC COMMENTS – None

5. PRESENTATION

A. Winds of Change - Adapting Our General Plan to the Changing Conditions of the 21st Century. Presentation by Don Weden, former Planner, Santa Clara County and Christy Riviere, Senior Planner, Association of Bay Area Governments on Projections 2009, Land Use Performance Targets, AB 32 and the Housing Element Update
Recommendation: Receive and file.

Mayor Anderson noted that AB32, the Global Warming Solutions Act, places the City in a situation where it needs to be concerned about greenhouse gas emissions, to reduce them down to 1990 levels by 2050 through adoption of regulations to achieve this goal. He said Projections 2009 will be prepared later this year and he discussed the various targets that ABAG proposes to use in this round of population and housing estimates.

There are many other elements that will be impacted by these changes, such as the Downtown Strategic Plan, the Housing Element Update, and he introduced Don Weden, former Planner of Santa Clara County, and Christy Riviere, Senior Planner at ABAG.

Don Weden said he was invited by a friend to speak in Palo Alto in the Hewlett Packard Auditorium with 23 agencies sponsoring the event. He started thinking about the next 20-30 years and said he would present a summary of things which will affect everyone's lives. He noted the advice he is giving in his presentation is generic and he cannot tell each city what to do with planning efforts; that we should anticipate changes coming our way and prepare for them and said his winds of

change presentation will include demographic, economic or environmental factors that will influence our lives. He said changes and challenges will require significant adaptations in land use plans and policies, how and where future populations will be critically important, we need to be planning to be intelligently more urban through general plan updates or strategic planning, but because there are serious challenges, the conventional planning techniques may not always be successful.

Mr. Weden said there are two fundamental kinds of change; cyclical and structural, and he discussed the differences between both, said they will be directed by decisions at the local level about how to house future populations. Over the next 35 years another 100 million people will be added to the United States to bring the population total to 400 million, California's population growth over the next 25 years is projected to be 12.5 million or a 1/3 increase, and another 2 million more people over the next 20 years will locate in the Bay Area. He said in future planning, housing needs should be studied, and within the next 20 years 1 of 5 residents in the Bay area will be over age 65 or double what it is today. This is vastly different than demographics of population today and has all sorts of implications, such as work force, health care, transportation, housing and others.

The senior population group will want to remain active within their community, urban living will become a necessity, and he spoke of quality of life issues and senior's who drive versus did not drive, walk, and are able to get around in their communities.

Mr. Weden then referred to global warming choices, stating people can mitigate by reducing, can adapt or suffer in the future and that AB32 sets two goals for GHG's; 1) reduce GHG's to where they were in the year 2000, and 2) get them back to an 80% reduction overall to 1990 levels by the year 2050. The State is trying to achieve these goals which will require a lot of mitigations from many sources. One is to recognize land use and patterns are a significant contributor to global warming. He said vehicle miles traveled is expected to double due to housing construction and a goal is to drive less, carpooling, bringing jobs, housing and other trip generators closer together, and making transit, biking and walking more viable options.

He further discussed fuel and energy costs, shopping and driving patterns, food and agricultural production, rising oil costs, rising wealth of other countries, effective use of land, reusable land, vacant land, livability, creating neighborhoods, mixing compatible land uses, planning for people and not cars and increasing all mobility choices.

Mr. Weden said there are many housing element updates, general plan reviews and specific area plans underway and major decisions will shape the Bay Area as a result for the next decade. He suggested asking what the City will need to do to make it continue to be successful as the challenges occur, and then base your vision of the future on this, and include the community as well.

In conclusion, he said we are at a point where we need to take a longer term view of the future because of serious structural changes, the decisions local governments make will shape history of communities and our planet in some cases because of the cumulative consequences of the decisions we make. And over the next 12 months with updates of the General Plan and Housing Element, this is the critical time period.

Councilmember Andersson referred to gas prices, said he was intrigued with the diagram of the commute from Tracy to Palo Alto, as he has a friend who has a similar commute. He said we hear solutions about moving housing to where jobs are and a lot less about moving jobs where the people are, his friend only goes into the office once every two weeks and works from home. He questioned if there was any potential, given vehicle miles traveled is a key metric given vehicle miles traveled is very dependent on commute distances, the idea of not shortening but eliminating

those distances most of the time. Mr. Weden said it works better for some people than others; telecommuting is not that easy for certain jobs, moving jobs to where people are would mean moving jobs to the Central Valley and putting it into more farmland and putting it in the hottest part of the state which will require more energy, and this may not be the best choice.

Councilmember Andersson questioned what structural changes could be made to the way jobs are performed, and Mr. Weden said what seems to be popular is moving towards the 4/10 work week or 9/80 work week, which may have a greater impact.

Mayor Anderson referred to increased density, said people still will have cars, there will still be a need for people to get away from the community and travel, and as they do that, congestion occurs. He questioned if the amount of congestion will not be significant, even though densities are higher, or the amount of congestion per the number of people involved will be a lot less and therefore we should be afraid of that. Mr. Weden said in looking at the region, there are three alternative transportation future scenarios; 1) status quo; 2) we will have a lot more traffic everywhere and we will not have viable alternatives; and 3) we will have more traffic congestion than today but we will also have viable alternatives for those who want to use it. If higher densities are created, not everyone will take public transit, but it will provide the opportunity.

6. ADJOURNMENT

ACTION: It was M/S/C (Federighi/Tatzin) to adjourn the meeting at 7:25 p.m. to the Regular City Council meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None.

APPROVED:

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Mike Anderson, Mayor

ATTEST:

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Joanne Robbins, City Clerk

City of Lafayette
Public Meeting Agenda
City Council Regular Meeting

MINUTES

Lafayette Community Center – Manzanita Room **July 14, 2008**
500 St. Mary's Road, Lafayette, California **7:00 p.m.**

1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:35 p.m.

2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Tracy Robinson, Administrative Services Director; Niroop Srivatsa, Planning & Building Services Manager; Greg Wolff, Senior Planner; Jennifer Russell, Parks, Trails & Recreation Director; Mala Subramanian, City Attorney; Robbins, City Clerk.

3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson.

4. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Andersson) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

5. PUBLIC COMMENTS - None

6. PRESENTATIONS - None

7. OLD BUSINESS

A. Agreement for Use of Lafayette Plaza by CoreQuest Corporation and Contra Costa Adventure Boot Camp
Recommendation: Discuss and direct staff.

Administrative Services Director Tracy Robinson said at a previous City Council meeting, CoreQuest Corporation requested being able to use Lafayette Plaza some mornings of the week for a Boot Camp. The Council directed staff to return with a letter of agreement for the use and they contacted Walnut Creek because CoreQuest had some of their Boot Camps in the Walnut Creek Park and could use their agreement form. She said there are some members of the community with concerns with the agreement.

Councilmember Anduri said one of the issues is the availability of parking in the morning hours for businesses.

Councilmember Federighi said there was one business owner who offered parking to Adventure Boot Camp, but she was not sure whether or not there was any resolution of this or how much parking was included in the offer.

Mayor Anderson confirmed there was no representative from CoreQuest who was present at the meeting.

Public Comments:

CHUCK STUART said he spent many years with the Chamber of Commerce, sat on a City Commission and worked with parking issues, and he feels that given his experience, he is aware of the importance of parking and the fact that property will not be developed with sufficient parking, which is critical in most cities and is expensive. He questioned whether it was right for a business be granted a position in the center of the City without providing parking and he believed what was conveyed in the letters represented the business owners' positions.

Mayor Anderson questioned and confirmed with Mr. Stuart he was aware of the parking regulations and business hours of nearby businesses. Mr. Stuart said it was not so much the particular hour, but the "nose under the tent" issue because one could argue there could be enough parking if you took the whole block and a half for people to make adjustments on any one given day, but 50% of the time there is not.

Councilmember Anduri questioned and confirmed that a concern was that the business was a for-profit activity in a public space; however, it is the total impact of approving something like this. He read a letter into the record from Michael Foray who owns five locations around the park regarding accountability for providing parking.

Councilmember Anduri questioned if this would create a precedent if approved, and City Attorney Subramanian said the City currently does not have a policy so in the event it is approved, the Council could review it annually due to its one-year term. If the Council finds the situation creates problems, the Council could choose not to approve a subsequent application. She said the Council would basically allow this group to use the park for an hour on three days. She said currently, if they wanted to have the exercise class, there would be no security that that hour would be available and the park would be available, but they could hold the class and no permit would be required.

Councilmember Anduri confirmed with City Attorney Subramanian that someone could operate a for-profit activity because the City had no policy, but could adopt one if there are issues or problems.

Councilmember Andersson said the letter of agreement states nothing about parking and he questioned if requirements for parking could be added into the agreement for them to arrange for their participants to park in certain areas, and Ms. Subramanian said this could be done, but the area is all public parking. She suggested the last sentence of the first paragraph read, "Attendees shall park on Golden Gate Way."

Councilmember Federighi said she recalled Whoerle's offer of parking, and if participants and employees could park there, it could relieve this aspect of the application, and this was something she would rather have incorporated, but was not sure how to do it. City Attorney

Subramanian said staff could continue the matter, make the suggestion, and revisit the item. She felt Whoerle had possibly four or five spaces, but she was not sure.

Councilmember Federighi voiced support for continuation of the item.

Vice Mayor Tatzin thanked property owners and businesses for their letters, thinks there are two issues; the use of the site and parking. He said the use is divided by a City asset for private purposes. There are many other parks and recreation facilities that are guaranteed with the use of parking. It would seem that if the city were to do that with this facility, we should do the same thing, as it will be an on-going activity as opposed to a one-time event.

Vice Mayor Tatzin said while this is a one-year agreement, we have seen situations before like Petanque where there have been requests for borrowing a space and $70,000 later we build an entire parking and concourse. In about one year, the new library will open. It may well have a parking impact on Golden Gate Way given the popularity of events. He believes there is a problem and would prefer to deny the request as opposed to continue it.

Councilmember Andersson questioned if he would rather pass it onto Parks and Recreation Commission to see if they could come up with a plan, and Vice Mayor Tatzin said he would rather have the applicant re-apply next year.

Councilmember Federighi would rather not have an absolute denial. At the time the applicant came to us, it may have been naive to consider it an exciting use without thinking through problems, and the applicant is not present. She would rather have the opportunity to discuss concerns with the applicant.

LYNN HIDEN said she did not support the idea, believed it is a gift of public funds and space. She said that one of the key problems of parking is along the Plaza parking area and up and down Golden Gate Way. She said there will be heavier parking demands once the library is open in that area and she would not support the application.

Councilmember Anduri said he typically would not want to take action on the item when the applicant is not present; however, the applicant knew this was scheduled. He said he would want more information on the parking situation. If there is a possibility of more parking, he would be more concerned with the precedent set and would rather defer the item.

Mayor Anderson said he generally supports the request, but believes more information is needed about the potential for parking and better understand the matter.

ACTION: It was M/S/C (Federighi/Andersson) moved that the item be continued to September 8, 2008; Vote: 4-1-0 (Ayes: Anderson, Andersson, Anduri, Federighi; Noes: Tatzin; Absent: None).

Vice Mayor Tatzin questioned Councilmember Federighi whether the issue of a user fee for use of the space would return or whether the Parks and Recreation Department will come up with a use agreement policy, or was this something that will be kept at the City Council level. Councilmember Federighi said a fee could be something that could be discussed with staff, as similar public recreation facilities are charged a fee. She will ask that the staff report have a brief discussion on all of the points brought up this evening.

B. Tracy Robinson, Administrative Services Department

Lafayette Sales Tax Measure for the November 4, 2008 Ballot
Recommendation: Discuss and direct staff.

Administrative Services Director Robinson said at the last meeting on June 23 the Council received a report from Godbe Research on a voter attitude survey. The result of that survey was that a sales tax measure is generally favorably received by Lafayette voters. Given a margin of error of 5.6%, it suggests the City may be poised to pass such a measure. Godbe further reported that the tax proposal would gain support if the rate was lowered below 1% and a fixed term attached to the tax. At the last meeting, the Council requested staff to: 1) draft a ballot measure for consideration; 2) launch efforts to notify residents of future Council discussions of this meeting and the next meeting in July; 3) prepare some non-binding draft expenditure plans on how the funds may be spent if approved by the voters; 4) prepare a discussion of how an audit of those funds would be conducted; 5) look for data regarding if and how increased local sales taxes would impact local merchants; and 6) prepare a draft schedule for a public information program that would be launched if the Council chooses to place this measure on the November ballot.

Ms. Robinson said the draft ballot language, given the limit of 75 words; would read:

"To maintain and improve general fee services in Lafayette such as fixing potholes, paving and maintaining 99 miles of city neighborhood streets and roads, supporting the Lafayette Police Department including patrol, neighborhood watch and crime prevention, and preserving parks and open space for recreation and to prevent hillside development, shall the City of Lafayette enact a ¾ cent transaction and use sales tax for 9 years, with independent audits and all funds staying in our community?"

On the question of public notification, Ms. Robinson said staff replaced a banner in the banner box at the corner of Mt. Diablo and Moraga Road advertising the meeting of the City Council both tonight and the next meeting on July 28th. Staff also prepared and distributed a press release to the Lamorinda Sun and the Lamorinda Weekly, Lafayette Today, the Lafayette Homeowners Council and the Lafayette Chamber of Commerce. Staff put an item on the City's website front page advertising the dates the issue would be discussed.

Regarding the draft revenue projection and expenditure plan, currently buyers in Lafayette pay 8.25% sales tax and of that, 1% comes back to the City. Based on estimated sales tax revenue projections for 2007/08, staff estimates that we will receive $2.7 million. Therefore, a ¾ percent sales tax increment would generate approximately $2 million annually in new revenue for the City.

Staff prepared two draft expenditure plans on how the money could be spent. The first is the Balanced Plan, which would use 50% of the proceeds or $1 million annually towards fixing the City's residential roads and pay for ongoing maintenance of roads that have already been fixed. 25% of the proceeds could be used for downtown maintenance. There is currently a $250,000 deficit in the Downtown Lighting and Landscaping District, and $500,000 annually would be received to assure the twinkle lights, banner program, landscaping, parking and other services are maintained in the downtown. 15% of the proceeds, or $300,000 would go to expanded parks and preserving open space. The funds could be used to accumulate, maintain, expand and acquire new park facilities and open space as it becomes available and in accordance with the City's Parks Master Plan. And 10% of the proceeds, or $200,000, would go towards Downtown patrol efforts. Lafayette currently receives $100,000 from the State for a COPS grant. Given the

State is expected to eliminate this grant, the City could use a portion of the sales tax revenue to continue to pay for police officers currently being funded by the COPS grant.

Regarding roads, Ms. Robinson said that she and the Engineering Services Manager ran updated numbers to determine whether $1.6 million would be enough to address the current deficit. Their review showed that over a 9 year period, $1.6 million more in annual revenue would allow the City to complete the backlog of roads within a 9 year period. This assumes that there is a $1 million repayment from the debt the RDA owes to the General Fund and it includes $400,000 from the Streetlight Replacement Fund. She confirmed with Councilmember Anduri that it does not include Palos Colorados money. She said in the event the Council places a measure on the ballot and the tax is passed, staff proposes that the proceeds be deposited to a sub-fund of the General Fund and then each year at budget time, the funds could be transferred to specific projects. This would guarantee the funds were being used for general City purposes and it would create a distinct trail of accountability.

Regarding the question of how a sales tax increment would affect local businesses, as the Council heard in the prior staff report on June 23, not much empirical evidence exists for how sales tax increases affect sales. Staff did a phone survey of a few communities that increased their sales tax, most of which were passed in 2005, which showed that there had been very little to no effect on sales. However, the Chamber of Commerce may have a different opinion. Staff also believes the issue of whether or not people would actually drive to a neighboring community to save $1 to $10 might be negated by the fact that gas is so expensive.

Lastly, the plan for the public information program would be that if the Council chooses to place a sales tax measure on the November ballot, the City would send an informational letter to each and every household in the community that explains the measure and the City's unfunded needs that prompt that ballot measure. Furthermore, following the letter, the summer issue of the Vistas would introduce the matter to residents as a front page article, targeting delivery to mid- to late August. She said this would immediately be followed up with the fall Vistas which would be entirely dedicated to the matter and delivered mid- to late September.

Councilmember Federighi referred to Table C on page 7 regarding the survey of Finance Directors and City Managers; none of these is a local increment more than 50 cents. She questioned if any community was asked about their experience or if they had more than a 50% increment, and Ms. Robinson said none were more than 50%.

Councilmember Federighi said if the City were to even go to 75%, there was no other city in the Bay Area who has a 9% tax and Lafayette would be the first and the highest.

Councilmember Federighi referred to the expenditure plan, she questioned why $200,000 was proposed for downtown patrol, rather than $100,000 to backfill, as $100,000 could not buy the City another police officer. Ms. Robinson said the City added another Community Services Officer who is a non-sworn officer last year and the money could be used to hire a second Community Services Officer, whose job it would be to do non-patrol, non-sworn items, such as follow up on crime, and take reports, which is an option.

Councilmember Federighi questioned why, in both plans, that staff included an amount for expanded parks and open space, given that in the agenda, there is a proposal for an increase in parkland dedication fees and parkland facility fees, which will bring in more to the City than in the past. Ms. Robinson said money would be set aside to purchase open space and open space can be extremely expensive. So the idea would be to put money into a fund so that when large

spaces become available, given the expensiveness of property in Lafayette, the City would be able to purchase the land and preserve it. And, over a period of 10 years the City could fill that reserve to be able to make an impact in buying open space. However, this is a policy decision by the Council. She said the City could mix and match; there is a significant deficit in the landscape and lighting district and the difference could be split to address that.

Public Comments:

JAY LIFSON, Lafayette Chamber of Commerce, said the Chamber held its monthly Board of Directors meeting this date, most was dedicated to discussing the possible sales tax measure. He said the Executive Committee met with Councilmembers and the City Manager to review the results of the survey which indicated 59% supported by those interviewed. Emails were sent out encouraging attendance at the Council meeting by members and to submit comments. Lifson applauded the Chamber Board on taking a vote on what is best for the business community, and the Mayor and Vice Mayor presented a number of good reasons to support the measure. After a two hour discussion, their Board voted to oppose the tax measure, which echoed their member's recommendations. He said they felt this is not the right time; the downtown is made up of small businesses that are already feeling the effects of a poor economy. The climate could last another 12 to 18 months or more and people are questioning their spending habits. The question of whether or not people would shop elsewhere with a higher sales tax is a question of uncertainty and fear; however, their Board recognizes that the uncertainty of a negative impact connected to this could be dangerous to merchants and to the vitality of their downtown. He said the City has looked to the Chamber for support. They intent to continue to provide support and partner with the City and are committed to helping find a way to solve the funding problems of Lafayette.

Councilmember Anduri thanked the Chamber for their support, but was disappointed in their decision. He questioned what the Chamber's decision to oppose the tax meant and asked if a campaign would be run against the tax. Mr. Lifson said this was not discussed, but he would find it difficult to believe they would go out and campaign against it. The Executive Committee recommended to the full Board not to oppose it, but they heard from so many merchants and people who live in town that they felt a sales tax was an unfair way to raise money. Therefore, their vote reflected exactly what their members were telling them.

Councilmember Anduri questioned if the amount of the sales tax increase have the most impact, and Mr. Lifson said the Council may also be discussing at ½ cent sales tax versus the ¾ cent sales tax, and this was discussed, but it did not change the vote that took place.

Councilmember Anduri questioned whether or not the Chamber had any additional information the City may not have had relating to the impact of the sales tax increase on revenues. Mr. Lifson said he wound up with the same information the City did when he contacted various cities who raised their sales tax. There is no empirical evidence and it is more of an emotional issue than it is one of facts. He said the economic situation is tough, and having the roads torn up this week has not made it any easier on the way people are thinking about how bad business has been for some.

Councilmember Andersson said he was disappointed as well, Table B indicates that 10 of the 15 cities polled said they could see no difference in sales, agreed there is no empirical evidence, but more important is the following column which shows that 14 or 15 measures had Chamber support, which suggests that there did not seem to be a perceived effect on businesses, so he is a little surprised. He acknowledged the poor economic climate, but on the

other hand, the City is balancing a lot of other questions and this is sort of the last shot. He was therefore surprised of the Chamber's vote and questioned if there was an opportunity to reconsider or to make a suggestion as to what might make it more palatable.

MICHAEL HELLER, Concord BMW and the Lafayette Chamber of Commerce, said as he left the Board meeting, he saw the banner for the November 5 San Francisco Chronicle in his head which said, the City of Lafayette is now the most expensive City, He said the Board voted to ask the Council not to request an increase of sales tax at this time, said they are finding in his business that if they are selling cars and paying 9% in sales tax will make a big difference in a large purchase, which is about a $375 increase on a $50,000 vehicle. He said the dealers would end up paying for the deal, said it takes a lot of work to have a successful business, and thinks that the City would give itself trouble if it put itself on the front page as having the highest sales tax in California.

Councilmember Andersson confirmed that if a resident purchases a car anywhere in the state of California it would be $375 more, because they pay the sales tax based on their residence address. Therefore, if a resident of Marin County (7.25%) bought a car in Lafayette, they would be charged 7.25% in tax. Mr. Heller said people are already paying more for food, gas, and are hurting in all cities.

MARIANNE ADAMS, Yarn Boutique owner and Lafayette resident, said she recognizes there are issues in town that need to be taken care of but as a specialty store owner; she vehemently opposes the sales tax increase because the reasons for it are based on fallacious assumptions. People will buy groceries locally because there is no sales tax, people will purchase a lot of items at Costco and stock up due to gas, for products like she sells, her competition is all over the country who under-price yarn and her competition is great through the internet. Also, the assumption that most shoppers are residents in Lafayette which is true for grocery stores, but downtown there are specialty stores that attract outside residents, but voiced concern there are no good lunch restaurants, she called a colleague in Chicago who is talking about raising their 9% sales tax to 10% and said there are stores who are hurting as a result. She believes the 9% will also have a chilling effect on rentals downtown which will make it difficult to maintain the current environment.

Councilmember Anduri questioned if Ms. Adams' customers came into the store or ordered outside of the City. Ms. Adams said most come in, she does not have a current website, she does some mail order, participates in a program called Shop-A-Tron where people can buy on-line but she must pay more as a result of how it is configured. She said her customers drive all over the Bay area, but she has some of the best prices. She hears people speak of bargains where they do not have to pay sales tax and others who base their purchases on city sales tax. She said for every dollar she does not collect in sales tax, she may also lose $1 she is already getting.

GABRIEL FROYMOVICH said the timing of the sales tax is bad, said his research shows that Lafayette's population has only increased by 3,000 or 15% since it was incorporated in 1971, the mileage of maintained roads will stay the same, the State has added over $1 million to the City's budget but at the same time the number of City employees has increased from less than 10 to 40. He questioned consulting fee costs, felt the Council has become obsessed with taking citizen's discretionary funds and turning them into the Council's discretionary funds, has fallen completely out of touch with its citizens who are paying so many taxes already and asked everyone to vote against the tax and every Councilmember who voted for the tax.

Vice Mayor Tatzin confirmed that Mr. Froymovich runs the Lamorinda Wine Society but he also does consulting work and does not sell anything in town.

GEOFFREY BELLENGER thinks it is appropriate for the citizenry to be able to vote on measures to increase funding for the City, has seen the work of the City, how it struggles with providing high levels of services, and the struggle to find a funding mechanism to keep the City nice is just as important as keeping the sales tax where it is, and at a minimum, we should have the opportunity to vote on the issue. How it gets spent will incur much debate, and he believes the City is short on services and there is no good time to ask for a tax increase as it will always be unpopular.

Councilmember Anduri questioned what Mr. Bellenger sees the funds for parks, trails and open space doing over the years, and Mr. Bellenger said he has been on the Commission for many years, he just read of the proposal for parks and open space tonight, but what strikes him the most are the fees will pay for increments for parks and services related to new citizens, so the City is not loading what it is providing now. He said where the City is now is short of where it would like to be. We have 3.8 acres of parkland, with a goal of 5 acres. There has definitely been a shortage of playing fields, parks in neighborhood areas, and parks downtown. To purchase property costs a lot and fees collected now are no where near the kinds of money needed to acquire property.

TRACI REILLY said the City Manager once told her and her children that what government does for people what they cannot do for themselves and to her, two of such things are infrastructure and public safety. She said the City does not have enough money to pay for those two things, agrees there are always ways to cut back and be more prudent with dollars, various measures in the past have not been approved and the City is getting further behind. She acknowledged sales tax is not popular but it has a fair chance of passing, does not believe there will be a decrease but an increase in sales, agreed they will lose $100,000 from the State for a patrol officer and we are already considered as one of the lowest police forces in the area. She said there are citizens who have negative opinions, they may not want to pay any more, but police officers are needed to address speeding and crime in the City, and she is in favor of the sales tax, considers the library and open space to be unnecessary and non-essential and would support a modified Plan B.

GLORIA LENHART said she is disgusted and cannot believe the Council would consider doing something else to harm businesses in town. She will not continue shopping in Lafayette, said the parking is horrible, and said it is just as close for her to travel to Walnut Creek or Moraga to shop and it is a lot less hassle. She acknowledged the City needs money to repair roads and for police services, but she thought the City was looking at existing monies it had to address roads and police, and thinks the sales tax increase is a huge mistake, said a park downtown cannot be used due to no available parking, traffic is horrible and she questioned why cul-de-sacs are paved that are used by 5-6 homes and not hazardous roads.

Councilmember Andersson questioned what Ms. Lenhart would have the City do to shift money to pave hazardous roads, and Ms. Lenhart said she does not feel the cul-de-sacs should be paved and does not feel funds the City does have are being spent in the most effective way.

Vice Mayor Tatzin said residents of Sweet Court cul-de-sac paid for at least half of the cost of the paving, and Ms. Lenhart questioned the other cul-de-sac's, at which time the Council referred her to information the Council has discussed on paving projects which was located on the website.

LARRY BLODGETT said he owns a carpet store and believes people will drive one mile outside of Lafayette to buy carpet, said his business is greatly and negatively affected by the Internet business, said the discussion at the Chamber Board meeting was agonizing, said Lafayette businesses have been feeling the impact, he has downsized and reduced expenses, has seen good and bad times and is convinced they will get through it. He has a difficult time saying don't put it on the ballot because he knows the City is invested to making a lot of people happy but not all, but he does not think now is the right time and hopes there is another solution.

Councilmember Anduri said funds are needed to keep the City well-maintained which also lends to the success of businesses and sales, but at some point, it will not be able to expend monies on certain items. The City is supporting the lowest per capita police coverage in the County. He questioned what else could be done.

Mr. Blodgett said there have been discussions about going to merchants and start a volunteer organization to help maintain the public landscaping, said the property owners did not as a group support the downtown assessment district but many of the major players in town did support it and the biggest problem is the apathy and absenteeism of those who own business properties downtown. He said they did not care because they've owned the property for 50 years and get rent. He said you do not have people who are from town who live in town and who own a business that also happen to own business property. He said they got 40% back of undeliverable mailings when they sent out the twinkle light donation request, and he questions when ballots went out to the Downtown Core Assessment as to whether or not they even got it. He said the City reasonably spends its monies wisely, are fortunate to have great services and the public does not realize the hours staff puts in. He said he was concerned about the sales tax because since it is a non-specific tax and you are talking ¾ percent with not all to be spent on roads.

LYNN HIDEN said she has not made up her mind about the tax, said she would prefer a utility user's tax, and said her doctor's house is up for auction in Lafayette, she lost $68,000 from her 401K in June and she was not sure it is the right time to do this. She is not so sure this is our last best shot, early absentee balloters voted too soon with absence of information and the campaign committee never realized how many voters would vote absentee so early after they got their ballots. She questioned where the report of the finance committee was and why the Council didn't wait for that before proposing a ballot measure, and she agrees shoppers will shop outside the city. Many sampled cities were stand-alone cities, we are going into a Presidential election and when she sees her doctor's house up for auction, she worries.

VOYTEK KENOPKA said he owns a store in Lafayette, opposes the sale tax because it is unfair, wants a level playing field for everyone, people will not buy high ticket items in town and he anticipates many more people will be asking to ship items out of state. He said Lafayette residents have had chances to pass parcel taxes and utility users tax which they have rejected, and they just do not want to pay more taxes, and now the City wants to pass on the tax to merchants, which is not fair. Services and roads are primarily are for residents and not businesses.

Vice Mayor Tatzin said he appreciates the time the Chamber took to deliberate the item; said while he wishes the decision had been different he understands the basis for it. Complications that the City face is that there are many uses, needs and very few people to pay for them. In terms of process, he feels the item should be continued because some people have intended to speak at the next meeting and also that it would be unfair for those who think it is a good idea to

wind up "blaming the Chamber" that it did not pass. Also, he wants to make sure no one comes away from any of the meetings thinking there is a group that has veto power over the City's decisions. He also said the homeowners council is meeting next week and discussing the matter and he would appreciate hearing from them. Also, if this does not go on the ballot, everyone should understand that the City will continue to spend money in a wise way, we are not going to think about whom we are going to blame for the fact that this did not go to the ballot. He said the City has clearly made periodic mistakes in how it spends money but they are not big enough to address a $24 million problem. He also said his phone has not been ringing off the hook for people who are volunteering to work on a campaign and he has made some outreach.

Councilmember Anduri questioned the status of the Finance Committee, and Ms. Robinson said it has been difficult to get everyone together during the summer. They are looking to provide an interim report to the Council but she is not sure they will be ready to do this before the next meeting. She said if the Council would like an informal report, she believed several of the committee members could attend the next Council meeting. However, the formal report was probably not going to come to the Council until the first meeting in August.

Councilmember Anduri said the last meeting to decide whether or not to place the tax on the ballot is the July 28th meeting, as August 8 is the final deadline to placing it on the ballot. He questioned whether the Committee would find there was money that could be better spent or not spent, and Ms. Robinson said she has attended the meetings and believed the members were very supportive of a sales tax measure. While they are not done with their analysis, they did not find any huge, glaring decisions or pots of money that could have been changed to address some of the needs.

Councilmember Anduri said the initial staff report referred to a $24 million roads gap, which was re-reviewed and the most recent report given indicates that under certain assumptions, there would be a $10 million gap at the end of 2014, but added into that should be $4 million from RDA funds that may be repaid, and $2.5 million from Palos Colorados. So, a .60 sales tax increase could fix all the roads by the end of the 9-year period. From that point of view, he said this means there are no longer additional outlays for much more extensive reconstruction of streets; the City is just paying for on-going maintenance.

So, if the City does not have a way to fix the roads at this time, at the end of the period, the City will have a $21 million gap at the end of 2014. He felt there was no really good time and the bottom line is that people are living on failed streets and how much time must they wait to be fixed, and he was surprised there are not many "failed roads" residents present.

Councilmember Federighi said she believed the item should be advertised and be carried over to the next meeting. She has considerable misgivings herself about this particular kind of tax even when it was put at ¾ percent increase. She believed there are other options for shoppers and she thinks it puts the business community at a disadvantage. She wished though that the City could pass a measure that would take care of the City's road problem. She sees the capital expenditure as an investment, and this is where she would like to see excess monies go. While we were told by the consultant a sales tax measure has a good chance of passing, the City was cautioned that a good campaign is needed, and opposition will have its effect on the outcome. And, she felt it was much harder if you have a general tax to generate the kind of enthusiasm for carrying on the campaign, as well as getting a group of people together to carry out such a campaign in such a relatively short amount of time and supports continuing the discussion.

Councilmember Andersson suggested staff contacting the consultant about his opinion about the impact of the economic conditions generally on a tax measure and also his opinion on opposition from the community.

Councilmember Anduri said he is sensitive to the headline that Lafayette would have the highest sales tax, questioned whether people would drive 10 miles to avoid a higher sales tax, was not sure whether there was any way to get additional information before meeting in two weeks, and acknowledged the issue is emotional.

Mayor Anderson thanked the Chamber of Commerce for considering this, he felt people had good questions at the presentation, and he said at the presentation that if the Chamber was not feeling comfortable with it, he was not sure the Council would be moving forward. He thinks their concern indicates that the tax is not wanted, there will be more discussion on July 28th, and acknowledged the Chamber as an important partner.

Vice Mayor Tatzin asked staff to prepare one or two hypothetical expenditure plans for a half-cent sales tax because there was some discussion among members of the Chamber on the price point at 8.75% versus 9%.

Councilmember Andersson also asked the Chamber to discuss whether or not a half-cent sales tax would be more palatable or if it would change their position, or if there was some other amount that would allow the City to go forward.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the Lafayette Sales Tax Measure for the November 4, 2008 Ballot to July 28, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to convene the Redevelopment Agency meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

8. STAFF REPORTS

A. Ann Merideth, Community Development Director

Authorization to hire Rosenow Spevacek Group, Inc. for amendments to the Lafayette Redevelopment Plan

Recommendation: Authorize the Executive Director to hire Rosenow Spevacek Group, Inc.

Planning and Building Services Manager Niroop Srivatsa said staff asks that the Agency hire RSG, Inc. to prepare two amendments to the Lafayette Redevelopment Plan and to also undertake an extensive public hearing process that is required under Redevelopment law. The two amendments are to 1) extend the Agency's use of eminent domain powers for a maximum of 12 years as allowed by the law, and 2) to extend the deadline of the Agency's ability to establish or incur debt, to January 2025.

Ms. Srivatsa said the proposal submitted by RSG, Inc. is for a total of $83,700 which includes the public hearing process. Funds will be drawn from the Redevelopment Agency and not from the General Fund.

Agencymember Federighi noted the firm was in southern California, questioned if there was a specialist in this area, noticed they have outside the not to exceed fee, cited travel and accommodations, overnight shipping, and costs that could add up. What also concerns her is outside the not to exceed fees is the "services related to community meetings and public hearing" and questioned whether something could be negotiated and/or find a local firm.

City Attorney Subramanian said staff did attempt several times to discuss with other well-known companies that specialize in the work and were not successful.

Agencymember Anduri voiced concern with the number of consultants the City has, could see how people would be concerned about how the City hires consultants, and questioned what the benefit was to the Agency for spending the amount on a consultant to do the work, when the funds could actually pay for street repair.

City Attorney Subramanian said if the Agency wanted to accomplish the work, it would take a significant amount of staff time, she was not sure whether a staff person would be qualified to do the work, but it would also take that person away from current duties. She said the Agency staff reviewed what other things the City could do with the Redevelopment Agency; we wanted also the ability to extend the ability to incur debt. What it gets the Agency is that it continues the ability for the Agency to accrue tax increment funding, which is very critical to the Agency and can be used for a multitude of items. Staff could return with information on the amounts it would accrue, which would be significant. She also said staff wanted to ensure that the Agency did not have potential opposition before starting on the endeavor.

Agencymember Andersson said he was surprised at the amount, noted the work did not simply include drafting two amendments, and asked for further explanation. City Attorney Subramanian said blight findings have significantly changed in Redevelopment Law, and in order to do these amendments, the Agency must make findings that there has been substantial blight and substantial evidence. The substantial evidence is going to be what is done by RSG, Inc. and she read some of the findings necessary. The other bulk of the work would be the meetings and noticing.

Vice Chair Tatzin referred to page 20 and a public hearing mailer and said this is also covered on page 17 in item 49, and City Attorney Subramanian said this could be something that could be removed. He also referred for the chart on page 19 which has a series of reimbursable costs, and he questioned if these are the items on page 20 that the consultant is charging for, and City Attorney Subramanian said staff could confirm this.

Agencymember Federighi questioned if the public hearing and mailing was included in the amount. City Attorney Subramanian suggested continuing the item and clarifying costs. She believed that those costs for travel have been added in the reimbursable costs as estimated, but would confirm this.

Mayor Anderson confirmed there were no public speakers on the item.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to July 28, 2008 for clarification of costs. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Vice Mayor Tatzin noted that Item 9A was lengthy, staff provided a missing part of Item 9B on the dais and he did not have an opportunity to read it, and given the lateness of the hour, he questioned if the Council wished to continue the item. Mayor Anderson suggested taking a break.

BREAK
Mayor Anderson called for a break and thereafter reconvened the regular meeting.

9. PUBLIC HEARINGS

A. Greg Wolff, Senior Planner

GP01-05 / RZ01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING: Lafayette Park Terrace – Proposed 20 Unit Condominium Project at 3235 Mt. Diablo Court, a 2-acre site at the terminus of Mt. Diablo Court. APNs: 233-131-020 & 022

Recommendation: (1) Review project plans, take testimony from the applicant & public; (2) Continue the matter to July 28, 2008 for the second reading of the Ordinance and adoption of the Mitigated Negative Declaration / approval of the Project subject to conditions.

Senior Planner Greg Wolff gave the staff report, stating the applicants were directed to substantially reduce the height, size, bulk and mass of the project, and thereafter, the applicant removed the upper most story over parking and the Planning Commission reviewed the matter twice and concluded that the project met the direction set by Council on September 10, 2007. He said the project was originally submitted as a 32-unit project in April 2005, it has had more than 20 public hearings between Design Review, Planning and Circulation Commissions and City Council, and the story poles for the project have been erected since early April, described the project location, and presented a site plan of the project. One concern of neighbors and the project proponent is that the project is adequately parked. Previously proposed was the use of parking lifts to over-park the project; however, currently, more than adequate parking is proposed in an underground parking garage bunkered into the hillside.

Attached to the staff report is a development agreement whereby the developer would be required to provide off-site improvements, which are listed on page 16 and 17, the applicant is required to construct the sidewalk from the south side of Mt. Diablo Boulevard to connect to the existing sidewalk of the Park Hotel and connect to the sidewalk coming off of Pleasant Hill Road near Hungry Hunter. The developer is also required to provide a traffic signal at Mt. Diablo Boulevard and Mt. Diablo Court, landscaping and lighting, parkland improvements for a passive park, an easement and contribution towards the ultimate connection of Mt. Diablo Court to Pleasant Hill Road, and 3 affordable units; 2 moderate and 1 low.

Regarding environmental review, staff prepared an Initial Study and a mitigated negative declaration, and with mitigation, the project would not have significant impacts. Staff has received letters from the Fire District requesting certain conditions. Concerns expressed by the public include comments that the project is too dense, the bulk and mass of the structure is inappropriate for the site, too much traffic, and impacts on parking, blocking views, offset visibility and incompatibility. Mr. Wolff said staff has supported the project at 32 units and continue to support it at 20 units, said the property is immediately adjacent to higher density, multi-family residential housing, said the project would be the lowest multi-family project in the

area, and he presented a packet of 56 pages of public comments that were received subsequent to distribution and publication of the staff report.

Mr. Wolff said one of the concerns expressed most recently is that there was not enough time to read the 193-page staff report which, for the most part, is the existing record for the Council's reference. The new documents constitute a 4-page staff report, the 4-page letter from the project attorney, a 2-page letter from support and the draft resolution and ordinance.

Staff was contacted by Parks, Trails and Recreation Commissioner Jeff Bellenger whose comment related to the review for any proposed improvements to the pocket park. He identified an inconsistency between Condition B.2 and the mitigation measure on page 11 of 11, Mitigation Measure 23. Staff supports Mr. Bellenger's recommendation to make the language consistent whereby it would include reference to review by the Parks, Trails and Recreation Commission and adding, "as appropriate" which was added by the Planning Commission.

At the May 15th Planning Commission meeting, the applicant identified that he had misread an elevation on one of the topographic maps and it inaccurately showed the Courter's residence in a section drawing, which is lower and would diminish the viewing path beyond what was shown. Because of this, the Planning Commission wanted to verify all other information was accurate and the letter was before the Council this evening.

Mr. Wolff said staff recommends the Council take testimony from the applicant and public, and continue the matter to July 28th for a second reading of the ordinance and adoption of the mitigated negative declaration and approval of the project.

Councilmember Anduri said a couple of letters have been received regarding earthquake and slide potential on the property, and he questioned if this had been addressed. Mr. Wolff said the slide map and Earthquake Hazard Map from the General Plan EIR and the project-specific geotechnical report were all considered in reaching staff's determination in the mitigated negative declaration. There is new information; however, it is very general and staff will review it between now and the next meeting, and he believes it will not change the conclusion of the mitigated negative declaration.

Vice Mayor Tatzin referred to the letter from the homeowners council regarding the General Plan hazard map which he believes has been supplemented by more recent USGS data and Mr. Wolff said the geotechnical report used much more up-to-date data than the original 1976 and readopted General Plan hazard map.

Councilmember Andersson said it was not clear as to what the Planning Commission's two descending votes' concerns were, and Mr. Wolff said their concern had to do with the threshold or sensitivity given to the General Plan Amendment, which they felt should not be changed haphazardly or without serious consideration. He believes both descending Commissioners felt that the project should be held at a higher standard because they were requesting a General Plan Amendment, and they felt it could be smaller and less impactful.

Councilmember Anduri asked what the square footage was of the project the Council reviewed on September 10, 2007 and he questioned the discrepancy between the original 40 unit development to the 32-unit project, and Mr. Wolff said when the project was first contemplated, it was 40 units and it had an additional wing paralleling Pleasant Hill Road to the north and staff's direction was to eliminate that and make it smaller. The applicants listened and removed it, thereby making the number of units down to 32 units.

Councilmember Anduri said one of the letters in the packet states visibility is improved through the screening of an existing grove of redwoods which are to be removed, and Mr. Wolff said this was the first time he had heard the comment.

Vice Mayor Tatzin said in the absence of a General Plan Amendment on the parcel, assuming that units were constructed, he confirmed that 10-12 units could be developed under the current General Plan.

Councilmember Andersson noted that in answer to Councilmember Anduri's previous question, the October 18th Planning Commission meeting minutes indicates that 20 units were of 71,000 plus square feet.

Mayor Anderson referred to the traffic signal, said the City is receiving $75,000 through conditions, and he confirmed the remaining cost would be paid for out of the Redevelopment Agency budget and covered.

AL MOORE, Land Use Attorney representing the Applicant, Danville, gave a presentation on the project, stating their offices have represented Lafayette Properties over the last four years, described the project's affordable component, noted the significant amount of time in public hearings on the project, said the project has been fully recommended by all advisory bodies in the City and staff, said they received support but not pre-approval from the City Council in a joint study session to move forward on April 24, 2006, and they have significantly reduced the project down from 32 to 28 to 26 to 23 and now down to 20 units. On September 10, 2007, the Council again indicated that it supported the General Plan designation for this site; however, the Council asked them to go back to the Planning Commission and achieve consensus with the Commission on a reduced project alternative, which was done. He therefore requested the Council approve the General Plan Amendment, the rezoning and all other approvals necessary for the project.

JOE BOLOGNA, Hollman Bologna Architecture and Planning, gave an overview on how they complied with all of the City's requests, acknowledged the original square footage at almost 74,000 square feet and their reductions down to 54,800 square feet with the garage, or 33,700 without the garage. He discussed changes involving reductions in height, size and mass, improvements in landscaping, he presented building sketches, distances between the nearest neighbors, parking, said they erected story poles to represent views which show the project would be significantly mitigated by the existing vegetation and further mitigated by a very dense landscape plan. He said the result of the final project is based on what they have been given direction to do and he said he was available for questions.

Vice Mayor Tatzin referred to distances on the eastern side and confirmed the setback the project was from the property line was 30 feet and the required side setback is 15 feet.

Councilmember Federighi said a letter in the packet dated July 6, 2008 from the Grave's state that the story poles are hidden by an existing grove of redwoods, which will be removed, and she confirmed with Mr. Bologna that there are many redwoods planted behind the house on the property that will be removed. The majority of the perimeter trees that buffer the project are on other people's property, and the redwood trees along Lafayette Point to the west are very mature and do a very good job of buffering the view from the public.

Councilmember Anduri reiterated that there should be no reliance on the joint meetings as pre-approvals of projects. Mr. Moore confirmed there was no legal pre-approval, they did want a green light to start moving forward and noted the Council affirmed their agreement with the general plan designation at their September 10, 2007 hearing. Vice Mayor Tatzin said the proper way to describe the project is not in context of what was originally proposed rather than in context with what would have been allowable without a General Plan Amendment and what is now being proposed. Mr. Moore said the Council indicated that the correct number, if it were to be approved, would be somewhere between 12-28 units. The number 12 came from a lengthy discussion on the General Plan, or 6 units per acre.

Mr. Wolff noted that the project is not in a hillside overlay district, so therefore, not subject to it. He said regarding the question about the redwood trees, he understands which grove and the story poles being screened, they do provide screen from onsite but not off-site use. They will be removed because they straddle the property line between where the existing Lafayette Point Condominiums to the west.

Councilmember Anduri referred to the minutes from September 10th and said he believed 12 units were allowed and that there was going to be somewhere between 16-24 units. Mr. Wolff agreed that up to 12 units were allowed under the current General Plan and zoning allows for less. He confirmed with Mayor Anderson that a section of the new elevations are lower and are not in view of the residential unit for the Lafayette Point property.

Mayor Anderson opened the public hearing.

Public Comments:

MARCI MONTGOMERY reminded the Council that they have not yet changed the General Plan, questioned if there were good reasons for changing it in a semi-rural area, and believed what the Council should look at is what is actually being proposed and not what was reduced down. She voiced concerns of the project's location to shopping, traffic congestion, people being forced to drive and the removal of mature redwood trees.

KENT GORDON said Mr. Bologna lives in Lafayette and has the community's best interests at heart, said the project conforms to the type of housing needed in town, and asked that the project be approved.

LINDA MURPHY said there is a big difference between supporting the concept and this particular design, voiced concerns with the project's size and mass, inappropriate design, removal of trees, traffic lights and congestion.

BRUCE BALLENTINE said he fully supports the rezoning of the site to multi-family, did not support the original 32 unit proposal, felt the architecture was bland and suggested more interesting architecture for the project, thinks the project should be approved but asked the City to review their procedure to encourage better design in the City.

RICHARD ZORHER spoke in opposition to the project, voiced concerns of view blockage, size, bulk, privacy, traffic congestion and asked the developer to build within the limits of the current General Plan.

CAROL GRAY said she submitted a letter for the record stating most of their concerns with the proposed development, voiced concerns about extensive grading, the lack of factual data in the

environmental review, out of date sources, the project's size, mass and footprint, square footage that spreads out into the project and not up in stories, the project's location, the wildlife corridor and the project's transparency and notice to neighbors.

VIKKI VIJEH cited concerns of lowered property values, congestion, zoning, and asked for denial of the project.

RANDAL CASTRO, President of Pleasant Hill Valley HOA, opposed the project's size, said he collected 40 signatures of opposition and presented panoramic views of the project from various areas.

ANDREY YANKIN asked the Council not to approve the project due to its mass, size, bulk, removal of trees, closeness to him, and vague noticing.

DEBORA PEVERADA echoed previous speaker comments opposing the project, said the project's footprint has increased and not decreased, and asked Councilmembers to visit Lafayette Point to see what the project will look like from her window and also visit the senior housing project called the Stafford, which is similar in design.

JOE KAREN supported the project, said high density housing is the future regardless of whether we like it, cited the need for closeness to transportation resources, the project's reductions, and supported the General Plan Amendment.

GUY ATWOOD suggested the Council continue the item to July 28, asked the Council to visit the neighboring units, view the project's and neighbor's impacts, read the letters of July 12 when Pleasant Hill HOA and his letter from July 13 which are factual, and if staff could have indicated there were only 15 new pages they would not have read the 196-page staff report and their letters would not have been presented tonight. He distributed photos of a six-plex project and said this project could look like a nice-looking project, said there are 190 units excluding this project that are currently under consideration for senior housing, said when the Lafayette Point project was approved it was done so with the proviso that it not be growth-inducing. He noted ABAG indicated the City should reduce the amount of automobile traffic and have walkable projects to services, which this project does not accomplish.

JOEL AGNELLO supported the project, felt any project built into a hillside will look smaller and less bulky, felt it was nicely designed, and if approved as is, he felt it would be the nicest in Lafayette.

LYNN HIDEN presented three earthquake faults along the BART property line, voiced concern with the project's location for building, asked to correct an error in her letter to the Council to change 2000 to 2002, and cited problems with the project's mass, known and future risk for slides, earthquake risk, and asked that the negative declaration be changed from insignificant impacts to potentially significant or to significant and be addressed. She asked to light load the density of the parcel and require the most stringent construction and supervision standards.

BECKY COURTER said they chose to purchase their property because of its seclusion, but the project will be located right behind them and very imposing. She voiced concerns with patios looking right down into their backyard which were not in the site plan, the footprint which has not changed, said she was not sure the drawings have been changed to reflect the current plan, and voiced concern with noticing.

Mayor Anderson noted the next speaker, SUZANNE DOHERTY, had to leave and read supportive comments into the record for the project.

JEFF COURTER thanked everyone for the amount of time spent on the project, but was still not clear on what the project includes. He said many neighbors have disputed the site plan, setbacks, tree removal, view impacts, and felt due diligence has not been done on major details.

LARRY BLODGETT said he did not object or endorse the project, believed the site was appropriate for a General Plan Amendment to multi-family housing, said his business has a lot of impact from excavation of dirt, asked for a crosswalk going across to the bus stop on the north side of Mt. Diablo Boulevard, and asked that this improvement is completed, as well as sidewalks.

KATHLEEN SKONGARD echoed previous speaker comments opposing the project, voiced concerns of impacts to quality of life, blockage of sunlight and noted the Lafayette Point's redwood trees are scheduled to be trimmed back significantly.

Joe Bologna, Hollman Bologna Architecture and Planning, said he could not answer questions on traffic impacts, said it was discussed many times at the Planning Commission and staff and the Commission were comfortable with traffic, their parking ratio is also higher than any others in the neighborhood, their density has also been supported, the redwoods will remain in healthy condition and will not be impacted by their excavation which has been documented in the review process, the Council's instruction was to reduce the bulk and mass of the building and they stayed pretty much within the footprint except for a building which used to have one corner 20 feet from the property line, and he said they have visited Lafayette Point to review views and he presented one of the units visited. He acknowledged there will be a view to their building but they are at least 20 feet below the unit and the hills will still be seen.

Councilmember Federighi referred to total square footage, said one year ago, the 48 units were represented to be reduced from 52,000 to 36,500 square feet and now it has been stated it is further reduced from 54,800 to 33,600 square feet and asked Mr. Bologna to explain the contradiction. Mr. Bologna said this was a discrepancy in numbers. When they first came to the Council, the non-drived area of the building was 48,257 square feet. Today it is 33,739 square feet. He said he did not know where the numbers stated came from and whether they were accurate, but he confirmed the project is significantly less than seen one year ago; from 73,907 square feet and now it is 54,846 square feet.

Mayor Anderson said he believed the confusion is that some numbers reflect the garage; some do not. Mr. Bologna agreed and said the overall objective was to make the bulk, mass and screening more acceptable and not necessarily reduce the footprint of the project, which they were successful in accomplishing.

Councilmember Andersson referred to the drawings, site section page A.8. Section C, showing the view from the corner residence, and he questioned if this view was presented to the Design Review and Planning Commission. Mr. Bologna said they had originally believed the elevation of the home was 216, but it is at 206 as shown on the cross section. The slope is slightly steeper than they originally represented, and secondly, the cross section taken through the center of their house and the center of their project site was cut through the center, as opposed to the northeastern corner where the hill would be lower in the center of the property. He said at the amount of building one would see from down below would be the equivalent of a one-story house and the photograph presented documented this.

Mayor Anderson referred to Sheet 6.C. and he questioned how a living area at the Lafayette Point building relates to the cross section, noting views are blocked from some of the homes. However, the plans show the roofline only on the lower area. Mr. Bologna said the photographs demonstrated that the ridgeline, if carried straight across, would be roughly equivalent to the window line on the lower floor of the lowest unit at Lafayette Point.

Councilmember Andersson said there have been several comments that multi-family is appropriate with the primary objection being views of the project. He acknowledged some units at Lafayette Point are impacted, and if we assume multi-family is appropriate here and compare the visual impacts of having 12 versus 6 units with single family homes further on the hillside, the project really entrusted that reasonably well. There are some units that will still have views to the building, but he believed they were limited.

Mayor Anderson believe the project will be continued, but it was not clear to him whether the Council should continue to process the project or is there more information that should be brought back on July 28th to make a better decision.

Councilmember Anduri said on September 10th he specifically was not in favor of the project because the project should be limited to 12 units, he was concerned about the impact of the project to the neighborhood. Since then, having looked at the project, he thinks the developer has made significant changes; he does not look at what the developer has gone from originally but what is before the Council now and whether it meets the findings. While he thinks the project is a significant improvement, he would like an opportunity to see the project from the actual adjacent resident units.

Councilmember Federighi agreed and said she has never been inside the Lafayette Point units at all. She visited the Courter home which was not different than that shown in the photograph, and they can see only a portion of the roof, which was not very large and it does not block a significant view. She also continues to feel that a rezoning and General Plan Amendment for this area is appropriate because it is a transitional area, it is surrounded by commercial and some single family homes, and regarding this being a gateway to Lafayette and the story poles up, she has looked at it from the freeway, Pleasant Hill Road, Deer Hill Road, and she agreed it can be seen but it is not dominant. She said the Council was most concerned with the massiveness of it through its height, which has been reduced by a full story. While it stretches out, she was not sure what amount of impact relates to this aspect of it. Regarding the comment about the many housing projects in the pipeline, she thinks this particular project is rather unique for the niche it will fill.

Vice Mayor Tatzin thanked everyone for their comments, said it was very late, and suggested continuing the item and clarify outstanding items.

Mayor Anderson said in order to clarify issues, he questioned whether geology has been addressed properly, he asked how effective the trees along the western property line were going to be after excavation occurs, he agrees with Larry Blodgett on his comments regarding the crosswalk and traffic signal, he would like an opportunity to visit the Lafayette Point neighbors, and he wanted to get the composite from Lafayette Homeowners Council in terms of their concerns.

Councilmember Anduri questioned the Design Review vote and wording changes, and Mr. Wolff said this was during discussion and the vote taken was 3-2. In crafting the motion, there may

have been 3 people in support of one wording and as it was articulated further, the vote was 5-0 to support the design.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to July 28, 2008 and requested staff to provide clarifying information as collectively discussed. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

EXTEND MEETING

Mayor Anderson questioned whether the Council wanted to continue with the remaining items, given the lateness of the hour. City Attorney Subramanian reported that the Closed Session item would not need to be discussed.

ACTION: It was M/S/C (Tatzin/Federighi) to continue with the meeting at 12 midnight to 12:30 a.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

B. Jennifer Russell, Parks, Trails & Recreation Director
Ordinance 575 and Resolution 2008-28 Updating Existing Regulations Regarding Dedication of Land and Payment of Fee for Park and Recreation Purposes and Park Facilities
Recommendation: Introduce Ordinance 575 and Resolution 2008-28 and continue to July 28, 2008 for second reading and adoption.

Parks, Trails and Recreation Director Jennifer Russell said Libby Seifel of Seifel Consulting, Inc. will review two fees; Park Facility Fee and Park Dedication Fee, which requires adoption of an ordinance. She said significant work has been performed by the Parks, Trails and Recreation Commission, City Attorney, herself, and Seifel Consulting to prepare a very detailed and comprehensive report.

LIBBY SEIFEL gave a PowerPoint presentation, stating she was retained to update development fees. They focused on the Parkland Dedication In-Lieu fee and working very closely with the PTR Commission, the Parks Subcommittee and with staff, they made the recommendation that the City consider having both a Parkland Fee and the Park Facilities Fee, to be able to purchase parkland, develop existing facilities to provide additional capacity to meet the needs of new development. The Park Dedication In-Lieu fee is governed by the Quimby Act and the Park Facilities Fee is governed by AB 1600. She recommended the City continue the program similar to the way it has been operating and she gave a brief explanation of each. She noted the report provides the background on the Parkland Fee and the Park Facilities Fee calculations; the primary difference in the way the Parkland Fee is calculated now is that the basis for the fee is based on 3.8 acres per 1,000 residents rather than the Quimby Act maximum of 5 acres per 1,000 residents.

The Park Facilities Fee has the same calculation as used for Parkland Fee except the park facilities costs are being looked at.

MS. JACKIE TSOU, Seifel Consulting, Inc. said the City currently does not have a specific Park Facilities fee but a 20% allowance for park improvements. This proposed fee would replace this and more accurately reflect the cost to the City to provide park facilities to new residents. She said they worked very closely with the Park Subcommittee to create the nexus which showed the relationship between the additional demand for park facilities from new residential

development and the cost of park facilities to either create new facilities or intensify existing park facilities.

Ms. Tsou said in terms of calculating the fee, three factors were reviewed. The first two are taken straight from the calculation for the parkland dedication fee which the City currently follows as well which is the Quimby standard or current parkland acres per person. 3.8 acres is multiplied by an average number of persons per dwelling unit to get to a calculation of acres that would be required by each housing unit type. They translate that to a cost of park facilities. They reviewed recent park facilities that the City has developed, looked at current proposals, and on Table 4-1 shows a more detailed summary on the cost to provide park facilities at Lafayette neighborhoods and community level parks, which consist of a children's play area, some picnic tables, landscaping, and a per acre cost was arrived at. They did the same for community parks and determined a weighted average to get a sense of what a combined per acre fee would be.

In moving forward, the City truly wants to further develop neighborhood parks, so the expenditure of the Park Facility Fee would also be in relationship to a 20% allowance future acreage of neighborhood parks versus 80% community parks, and what they get is a weighted average cost per acre. They multiply the three factors together to arrive at the proposed 2008 Park Facilities Fee, shown on the top of page 11 of the report.

She said they are also proposing that the City collect a Park Facilities Fee on residential additions, based on a per square foot basis for residential additions that have habitable space of at least 120 square feet.

She also recommended the Park Facilities Fee be updated annually to keep pace with the cost for the City to provide park facilities, that the index be based on the Construction Cost Index for the Bay Area. She presented a summary of the park fees which include the Parkland Dedication Fee, an update of what the City currently has, the new Park Facilities Fee. They are also recommending a program administration fee of day to day costs for staff to administer the program, costs associated with a more comprehensive update in 5-7 years, which is about 1% of the Parkland Dedication Fee and Park Facilities Fee based on what the City currently collects to process the program and cost of updates.

Councilmember Federighi questioned how the current proposed fee compares to what the City has in place. Ms. Tsou said the comparison increase is above 40% which is largely due to the new Park Facilities fee that the City did not have before. She confirmed fees were last updated in 2005. Mr. Bellenger said an appraisal was done in 2004 which formed the basis for the fair market value of vacant land and then in 2005 was a fairly major update, with a 3-year phase in to the new level which ended in 2007.

Mayor Anderson said at one point the Council discussed an obligation to use the fees at some point, and he confirmed this was 5 years.

Councilmember Federighi questioned how firm this time period was, and City Attorney Subramanian said 5 years is under the Quimby Act; there is a different requirement under the AB 1600 which is for periodic review. She questioned if $5 million could not be acquired within 5 years that may be required to purchase parkland, and City Attorney Subramanian said the City would simply need to commit to it, but said she would need to confirm this. Parks Subcommittee Chair Geoff Bellenger said this was one of the reasons the City wanted to set up

the Parkland Acquisition Fund and $200,000 is included in this fiscal year, and also if a down payment is made, there might be other financing opportunities.

Vice Mayor Tatzin confirmed the action taken would be to introduce the ordinance and adopt both the resolution and ordinance at the next meeting.

Mayor Anderson opened the public hearing. There were no public speakers, and the public hearing was closed.

ACTION: It was M/S/C (Tatzin/Andersson) to introduce Ordinance 575 and Resolution 2008-28 and continue to July 28, 2008 for second reading and adoption on the Consent Calendar. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

10. CONSENT CALENDAR

Mayor Anderson said Item F has been requested for removal, and Vice Mayor Tatzin requested removal of Item E.

ACTION: It was M/S/C (Tatzin/Andersson) to approve Consent Calendar Items A, B, C, D and G. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

A. **June 23, 2008 City Council Minutes**
Recommendation: Approve.

B. **Agreement for Installation and Maintenance of Existing and new Landscaping between John and Kathleen Kluesener and the City of Lafayette, located at 27 Reliez Valley Court. APN 167-050-010**
Recommendation: Accept Agreement for Installation and Maintenance of Existing and New Landscaping between John and Kathleen Kluesener and the City of Lafayette, located at 27 Reliez Valley Court. APN 167-050-010

C. **Resolution 2008-31 authorizing the City Manager to Execute Program Supplement No. E44 to receive State funding for the Stanley Boulevard Springbrook Road Sidewalk Project, Project No. 014-9672**
Recommendation: Adopt Resolution 2008-31.

D. **MS503-04, 1751 Reliez Valley Road – Request by Owner to Transfer Certain Improvement Obligations to Buyer**
Recommendation: Approve agreements to allow the property owner to transfer certain subdivision improvement obligations to the buyer of a lot created by an approved subdivision, and authorize the Mayor to execute the agreements.

G. **FY 2007-08 Budget Adjustments**
Recommendation: Approve an additional FY2007-08 budget amount of $11,858 for the programs specified.

Items Removed from Consent Calendar:

E. **Lafayette Library and Learning Center Foundation RFQ for café space at the Lafayette Library and Learning Center**

Recommendation: Approve RFQ and ask Lafayette Library and Learning Center Foundation to distribute to all restaurants in Lafayette and to make available to others who request a copy.

Vice Mayor Tatzin reported an internal communications breakdown, confirmed there would be no cooking kitchen on site and the operator could have no freestanding sign allowed.

ACTION: It was M/S/C (Tatzin/Andersson) to approve RFQ and ask Lafayette Library and Learning Center Foundation to distribute to all restaurants in Lafayette and to make available to others who request a copy, as amended. Vote: 5-0-0 (Ayes: Anderson Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

F. Response to the Lafayette Homeowners Council's letter regarding the Lafayette General Plan's Earthquake Hazard Map
Recommendation: Receive and file.

Mayor Anderson announced that Ms. Hiden asked that the item be removed from the Consent Calendar.

LYNN HIDEN referred to the letter to the City regarding the absence of accurate or complete earthquake and landslide hazard maps in the adopted 2002 General Plan. Their concern is not just the Earthquake Hazard Map but also with streets being removed from the Landslide Hazard maps. There is concern that the EIR consultant may not have analyzed the more accurate and detailed maps contained in the draft General Plan as transmitted from the Planning Commission in 2002. The revised EIR of 2002 did analyze the draft General Plan with the correct and complete maps included because they are also included in the revised EIR. She said the problem with the inadequate Earthquake Hazard Map, is that it is inaccurate, incomplete and misleading. She asked that the shortcomings not wait for replacement by any General Plan update and that the inaccurate hazard maps be replaced with the already accepted more accurate ones.

Ms. Srivatsa said that Commissioner Hiden is correct that in 2001, the Planning Commission held public hearings on the draft EIR and the draft General Plan. However, at the end of 2001 when they came to the City Council, given the length of time passed, staff recommended that they prepare a revised Draft EIR. The hearings held in 2002 were of the revised draft EIR that has the same map as in the adopted General Plan. If the Council wishes to go back and change those maps, a General Plan Amendment must be initiated. Staff believes that when projects come before the City, specific and focused studies are done on the properties and the Council adopted a multi-jurisdiction local hazard mitigation plan a few years ago which contains the more detailed BART maps; and that staff should defer the General Plan Amendment until the General Plan is updated.

The City Council received and filed the Item.

H. COUNCIL/COMMISSION REPORTS

a. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Mayor Anderson reported that he and Councilmember Federighi attended the July 3rd Mayors Conference and a presentation was given on BART.

Councilmember Federighi reported that the CCSWA settled its reserve funds issue, which was a complicated settlement.

Vice Mayor Tatzin referred to the Downtown Strategy Plan and he thought they agreed one option would be for public improvements at BART for maintenance.

I. WRITTEN COMMUNICATIONS

a. **Letter from the County Connection requesting reappoint of Lafayette Representative Sandra Smith to the CCCTA Accessible Service Committee (ASC) for a two year term expiring in July 2010.**
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Tatzin/Andersson) to re-appointment of Lafayette Representative Sandra Smith to the CCCTA Accessible Service Committee (ASC). Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

J. CLOSED SESSION

a. **Mala Subramanian, City Attorney**
Conference With Legal Counsel - Existing Litigation
(Government Code section 54956.9(a).)
David R. Bruzzone, et al. v. City of Lafayette, et al.
Contra Costa County Superior Court Case No. C02 02145
Recommendation: Discuss and direct legal counsel.

b. **Public Employee Performance Evaluation (Gov. Code section 54957)**
Title: City Manager

The Closed Session was not held.

14. ADJOURNMENT

The Council adjourned at 12:40 a.m. to the next regularly scheduled meeting on Monday, July 28, 2008.

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk